IN THE

# Supreme Court of the United States

OCTOBER TERM, 1977

NO. 77-265

DAVID B. HIGGINBOTTOM,
*Petitioner,*

versus

W. MICHAEL BLUMENTHAL,
as Secretary of the Treasury of
the United States of America,
*Respondent.*

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

DAVID B. HIGGINBOTTOM
In Proper Person
Post Office Box 697
Frostproof, Florida 33843

THE CASILLAS PRESS, INC.–1717 K Street, N. W.–Washington, D. C.–223-1220

## INDEX

Page

OPINIONS BELOW ..... 2

JURISDICTION ..... 2

QUESTIONS PRESENTED ..... 4

STATUTE & CONSTITUTIONAL PROVISIONS INVOLVED ..... 5

STATEMENT ..... 5

REASONS FOR GRANTING THIS WRIT ..... 7

CONCLUSION ..... 12

Appendix

OPINION & JUDGMENT OF THE DISTRICT COURT ..... 1a

JUDGMENT OF CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT ..... 3a

ORDER DENYING REHEARING ..... 4a

ORIGINAL COMPLAINT ..... 5a

## TABLE OF CASES CITED

*Cherokee Nation vs. Georgia.*
5 Pet 1, 8 L ed 25 ..... 9

4 Wall 2, 71 US, XVII, 281 ..... 3

*Flast vs. Cohen,*
392 US 83 (1968) ..... 9

*Massachusetts vs. Mellon & Frothingham vs. Mellon,* 262 US 447, 43 S Ct 597, 67 L ed 1078 ..... 8, 9

*Schlesinger vs. Reservists Committee to Stop the War,* 418 US 208 (1974) ..... 10

*United States vs. Lee,*
106 US 196, 27 L ed 171 ..... 3, 7, 8, 10, 11

*United States vs. Richardson,*
418 US 166, 173, (1974) ..... 10

**STATUTE CITED**

28 USC Sect. 1254 ..... 2, 5

**U.S. CONSTITUTION**

Article I, Section 9, Clause 7 ..... 4, 5, 10
Article II, Section 1, Clause 6 ..... 4, 5, 7
Article III, Section 2, Clause 1 ..... 3, 4, 5, 8

**IN THE**

# Supreme Court of the United States

**OCTOBER TERM, 1977**

---

**NO.**

---

DAVID B. HIGGINBOTTOM,
*Petitioner,*

versus

W. MICHAEL BLUMENTHAL,
as Secretary of the Treasury of
the United States of America,
*Respondent.*

---

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

To: The Honorable Chief Justice and Associate Justices of the Supreme Court of the United States

DAVID B. HIGGINBOTTOM, the petitioner herein, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered in the above styled case on May 20, 1977, and rehearing was denied on June 22, 1977.

## OPINIONS BELOW

The Circuit Court of Appeals wrote no opinion. Its judgment affirmed the opinion and judgment of the United States District Court for the Middle District of Florida which is printed in Appendix A hereto.

## JURISDICTION

Judgment in the United States Court of Appeals for the Fifth Circuit was entered and filed on May 20, 1977 and rehearing was denied on June 22, 1977. Said judgment and order appear as appendices B and C hereto. The jurisdiction of this court is invoked under 28 U.S.C. Sect. 1254 (1) and Article III, Section 2 of the Constitution of the United States which latter provides in part:

> The judicial power shall extend to all *cases* in law and equity, arising under this constitution . . . (emphasis added).

The Section goes on to speak of controversies, but those are obviously in a different category from cases. This is a *case* arising under the constitution and as such falls clearly within the jurisdiction of this court.

When the executive can personally hire a group of criminals to invade the privacy of any citizen, as was the case of Mr. Nixon's "Plumbers", pay them at public expense and make no accounting to anyone for the way the money was spent, then clearly we have an executive dictatorship in this country, and the Fourth amendment becomes a nullity leaving no man safe in his life, liberty or property, and further this citizen's right to know what his government is spending its money for under Article 1, Section 9, Clause 7 of the Constitution has been denied him. Further, the executive, by overtly or even secretly hiring public relations people without having to account for their salaries, can mislead the public, instances of such misleading, as in the Tonkin Gulf Incident being within the



judicial knowledge of this court, thus denying this citizen his rights under the first amendment.

In *United States v. Lee*, 106 U.S. 196, 27 L ed 171, Mr. Justice Miller said:

> "The instances in which the life and liberty of the citizen have been protected by the judicial writ of *habeas corpus* are too familiar to need citation and many of these cases, indeed almost all of them, are those in which life or liberty was invaded by persons assuming to act under the authority of the Government." *Ex parte Milligan*, 4 Wall 2, 71 U.S., XVII, 281.
>
> "In such cases there is no safety for the citizen except in the protection of the judicial tribunals, for rights which have been invaded by the officers of the Government professing to act in its name. There remains to him but the alternative of resistance which may amount to crime. The position assumed here is that, however clear his rights, no remedy can be afforded to him, when it is seen that his opponent is an officer of the United States, claiming to act under its authority; for, as Chief Justice Marshall says, to examine whether this authority is rightfully assumed, is the exercise of jurisdiction and must lead to the decision of the merits of the question. The objection of plaintiffs in error necessarily forbids any inquiry into the truth of the assumption that the parties setting up such authority are lawfully possessed of it; for the argument is that the formal suggestion of the existence of such authority forbids any inquiry into the truth of the suggestion."
>
> "But why should not the truth of the suggestion and the lawfulness of the authority be made the subject of judicial investigation?"

"The defense stands here solely upon the absolute immunity from judicial inquiry of everyone who *asserts* (emphasis added by the court) authority from the executive branch of the Government, however clear it may be that the executive possessed no such power. . . ."

"No man in this country is so high that he is above the law. . . . All the officers of the Government from the highest to the lowest are creatures of the law and are bound to obey it."

"It is the only supreme power in our system of government, and every man who, by accepting office, participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the authority which it gives."

It is therefore on the basis of the deprivation by the defendant of this citizen's constitutionally guaranteed rights and liberties that the jurisdiction of this court is invoked.

## QUESTION PRESENTED

1). Should Article II, Section 1, Clause 6 and Article I, Section 9, Clause 7 of the Constitution of the United States continue to be ignored with impunity by the defendant?

2). Does this Honorable Court under the provisions of Article III, Section 2, have the duty to enforce the two clauses, that is to say, are the two clauses self-implementing or self-executing or are they such as require an act of Congress to be put into effect?

3). Does a citizen whose liberties have been denied him due to the failure of defendant and his predecessors in Office to abide by the provisions of the Constitution, have standing to come into the Courts of the United States to regain those liberties?



## STATUTE AND CONSTITUTIONAL PROVISIONS INVOLVED

28 U.S. Code 1254 (1)

The provisions of the Constitution that apply in this case are:

Article II, Section 1, Clause 6 provides:

"The President shall, at stated times, receive for his services a compensation which shall neither be encreased (sic) nor diminished during the term for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them."

Article I, Section 9, Clause 7 which provides:

"No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

Article III, Section 2 which provides:

"The judicial power shall extend to all *cases*, in law and equity, arising under this constitution . . . ." (emphasis added)

## STATEMENT

On January 7, 1976 plaintiff in the court below, appellant here, sued the Secretary of the Treasury, WILLIAM E. SIMON, to find out by what authority the defendant was paying out vast sums, that is to say sums variously estimated at between one million and two million dollars *per week* for the use of the President of the United States, for which no accounting was made, no appropriations were ever asked of the Congress, no statutory authority could be found, and contrary to Article II, Section 1, Clause 6 of the United States Constitution.

On March 8, 1976, sixty days after the complaint was filed, a motion was made by an assistant United States attorney for more time to file an answer or otherwise plead, and on March 9, 1976, plaintiff moved the court for entry of a default against the defendant on the ground, that the services of an assistant United States Attorney, *in this case*, constituted an unconstitutional emolument to the President.

The court, on March 9, 1976, entered its Order granting the "Motion of the United States of America" for more time.

On March 15, 1976, the assistant United States Attorney filed *Government's Opposition to Plaintiff's Motion for Default* and on March 17, 1976, plaintiff mailed his responses thereto.

On April 7, 1976, the assistant United States Attorney filed (1) defendant's *Motion to Dismiss for Lack of Subject Matter Jurisdiction and for Failure to State a Claim Upon Which Relief Can be Granted*, and (2) *Memorandum in Support thereof*. Plaintiff moved for and was granted time to prepare a reply memorandum and on May 18, 1976, plaintiff mailed his renewal of *Motion for Default* and responses to defendant's memorandum.

On August 13, 1976 the District Court entered its Order and Opinion (see Appendix A hereof) denying plaintiff's *Motion for Default* and dismissed the case.

On September 17, 1976, plaintiff filed his Notice of Appeal in the District Court and on May 20, 1977 the Circuit Court of Appeals affirmed the lower court without an opinion. Rehearing was denied on June 22, 1977.



## REASONS FOR GRANTING THIS WRIT

1). This writ should be granted because today in these United States it is a commonplace to refer to our "Imperial Presidency" and Mr. Nixon repeatedly referred to himself, when President, as *the* sovereign. When any man has absolute freedom to spend any amount of money he chooses, for anything he chooses, and does not have to account to anyone for the money he has spent, and the Secretary of the Treasury, his appointee, pays any voucher presented to him by the Executive, without question, then the President has in fact become *the* sovereign of this country. He can, at will, deprive any person of life, liberty or property without due process of law. Unless the courts require the Secretary of the Treasury to abide by the two first above quoted constitutional provisions, then this plaintiff has already lost every guarantee that he will be able to enforce his rights under the Constitution of the United States, and his personal liberty is, in fact, a myth living on from a time when the courts were not so timid. See *United States vs. Lee*, 106 U.S. 196, 27 L ed 171 in which the courts returned Arlington National Cemetery and a United States Fort to the possession of a private citizen and told the executive branch it could not keep even such hallowed ground when it was shown that it had been taken illegally. The court also pointed out the remedies available to the Government, that the Government could negotiate a purchase, or, failing that, could go through condemnation proceedings.

The facts alleged in the complaint in this case (copy whereof is attached as Appendix D) are such that this honorable court can and should take judicial notice of them, and once having taken judicial notice of them, and of the violations of Article II, Section 1, Clause 6 and of Article I, Section 9, Clause 7 which are abundantly apparent for all to see, and hence of such a nature that this court can take judicial notices of them, it is the duty of this court to enforce those constitutional provisions, they being self-

implementing. See the *Lee* case *supra* at page 181 L ed, "Undoubtedly those provisions of the Constitution are of that character which it is intended that the courts shall enforce when *cases* (emphasis added) involving their operation and effect are brought before them." Here the court distinguished between self-executing or self-implementing provisions of the Constitution such as the clauses involved in this case and those clauses which deal with raising taxes, raising armies, coining money and others which are not self-implementing and can only be implemented by acts of Congress.

Such being the situation and the law as laid down by this court, and violations of the above quoted clauses of the Constitution having been brought to the attention of this court, it is the duty of this court to see that those clauses are no longer ignored by the defendant with impunity.

2). & 3). The quotation from the *Lee* case, above, "Undoubtedly those provisions of the Constitution are of that character which it is intended that the courts shall enforce when cases involving their operation and effect are brought before them." effectively answers both the second question concerning the duty of this court when a case involving a self-implementing provision of the Constitution comes before the courts and the third question presented in this case, concerning this appellant's standing. No further reasons in support of the second question are given, since the *Lee* case clearly states that once a violation of a self-implementing provision of the Constitution is brought to the attention of the courts in a case, then the initiative passes from the individual to the courts and the duty then rests upon the courts to implement the Constitutional provision. But the word "standing" having taken on a magical quality and become a word to be conjured with like abracadabra or open sesame as used in decisions of this court, will be dealt with at some length. The doctrine of "standing" stems from the decision in *Massachusetts vs.*



*Mellon*, and *Frothingham vs. Mellon*, 262 U.S. 447, 43 S. Ct. 597, 67 L ed 1078, which merely re-asserted the ancient and well-honored position of this court that the courts cannot be used as forums to decide (1) hypothetical or (2) abstract of (3) political questions, citing *Cherokee Nation vs. Georgia*, 5 Pet 1, 8 L ed 25, which held that the mere passage of a law by the State of Georgia did not entitle the Cherokee Nation to come into court and have that law set aside until the Cherokee Nation could show concrete injury as a result of the enforcement of that law. Hence the question presented was abstract of hypothetical. In the *Massachusetts* and *Frothingham* cases, *supra*, complaint was made by the State of Massachusetts and Frothingham, an individual citizen, that an act of Congress would, if implemented, result in dire consequences to the State of Massachusetts and to Frothingham, individually. The court in *Frothingham* and *Massachusetts* never used the word "standing". It just reitered the Cherokee Nation position that the court was being asked to answer a political question, and it would not do so. Suddenly in *Flast vs. Cohen*, 393 U.S. 83, (1968) the magical word "standing" appears, and this court has been bedeviled by that word ever since. It is, in appellant's opinion, an un-American word, implying a caste system in this country in which some citizens have "standing" and some do not. The use of the word by the courts can not but have a negative effect in the minds of the vast majority of laymen in this country, and for that reason alone should be stricken from the vocabulary of the courts and the legal profession, which, as this court knows, are not in high repute at this time because of their use of words in ways that are not intelligible to the populace at large. It is time that word "standing" was discarded by this court and the court went back to deciding whether or not it was being asked to decide a mere (1) hypothetical or (2) abstract or (3) political question. It is interesting to note that in the *Flast* case the court held that the plaintiffs did have "standing" to prevent the use of

public funds for parochial schools, even though the plaintiffs were mere taxpayers. The true reason for that decision was that very specific provisions of the constitution, *i.e.*, the Establishment of Religion and Free Exercise clauses of the First Amendment were, in the opinion of the group of judges sitting on this court at that time, being violated by the statute. This, to quote from the *Lee* case *supra* again, was a case in which, "Undoubtedly those provisions of the Constitution are of the character which it is intended that the courts shall enforce when cases involving their operation and effect are brought before them."

In the next "standing" case, *United States vs. Richardson*, 418 U.S. 166, 41 L Ed 2d 678, 94 Sc R 2940, the court held that the plaintiff did not have standing to compel the Secretary of the Treasury to publish an accounting of the funds being spent by the Central Intelligence Agency. Instead of deciding that this was a political question that it would not answer, it further played with the magical word "standing" and produced a group of opinions about as confused and confusing as any to appear in recent years. To reach a correct and understandable decision all the court needed to decide was that the plaintiff had shown a clear violation of a specific Constitutional provision and require the Secretary of the Treasury to publish the accounts, but taking a lesson from the *Lee* case, supra, put off the publication date long enough to give the Congress and the States a period of time in which to amend the Constitution, if that was what was desirable, to exempt certain types of expenditures from the provisions of Article I, Section 9, Clause 7. Certainly the writers of the Constitution knew that they could not foresee all future problems, and that is why two different methods of amending the Constitution were written into that document. The same confusion over "standing" appears in *Schlesinger vs. Reservists Committee to Stop the War*, 418 U.S. 208. Clearly for a Senator or a Representative to be also an officer in the Military violates the provisions of Article 1, Section 6, Clause 2



which states, ". . . . no person holding any office under the United States, shall be a member of either House during his continuance in office." The court could have declared the question raised as being political and therefore not justiciable under its ancient rules, or it could have ruled that for members of either House to hold a military office was clearly unconstitutional, but given the Congress and the ~~States~~ a reasonable amount of time to amend the Constitution if that was felt desirable. Instead it reached for the magical word "standing" and spread confusion further.

In this case, if the court wishes to duck the issue or pass the buck, please let it be on the ground that the plaintiff has raised a political question which the court does not choose to answer and not on the confused and confusing issue of "standing". But taking a lesson from the *Lee* case, *supra*, the court does have the alternative of deciding that violations of very specific Constitutional provisions are clearly occurring, that they are bad for everyone, leading to irresponsibility and dictatorial power uses by the executive, and that it will send the case back to the district court with directions to enforce the Constitution, but allow sufficient time to the Congress and the States to amend the Constitution before requiring the defendant to start obeying the Constitution as it is now written.

## CONCLUSION

For the reasons given and because the defendant is violating ". . . . provisions of the Constitution . . . of that character which it is intended that the courts shall enforce when *cases* involving their operation and effect are brought before them" this petition for writ of certiorari should be granted.

Respectfully submitted,

DAVID B. HIGGINBOTTOM
In Proper Person
Post Office Box 697
Frostproof, Florida 33843



## APPENDIX A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

| | | |
|---|---|---|
| DAVID B. HIGGINBOTTOM, Plaintiff, | ) | |
| vs. | ) | No. 76-6-Civ-T-H |
| WILLIAM E. SIMON, as Secretary of the Treasury of the United States of America, Defendant. | ) | |

### ORDER

Plaintiff claims that such amenities as "Air Force One," Camp David, Md., a household and security staff, and use of public automobiles constitute "emoluments" to the President in violation of Article II, Clause 6 of the Constitution. He asks the Court to order Defendant to make an accounting of all expenditures made on behalf of the President, and to enjoin Defendant from further violating Article II, Clause 6 if the accounting reveals past transgressions.

Defendant has filed a motion to dismiss arguing, *inter alia*, that Plaintiff lacks standing to maintain this action.

Plaintiff's primary contention in opposition is that his status as a citizen of the United States gives him standing to litigate the alleged constitutional violation. (*See* Plaintiff's Memorandum filed May 19, 1976, at 8 and 10). This position was rejected by *Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 94 S.Ct. 2925 (1974),

in which the Supreme Court, discussing "citizen standing," held that the "generalized interest of all citizens in constitutional governance" is an insufficient basis upon which to predicate standing to sue because "concrete" injury (which "adds the essential dimension of specificity to the dispute") is an "indispensable element" of a "case or controversy," and that injury to an interest all citizens share is "necessarily abstract" in nature. *Id.* at 216-221, 94 S.Ct. at 2930-2932.

To the extent that Plaintiff is attempting to establish "taxpayer standing" under *Flast v. Cohen*, 392 U.S. 83, 88 S.Ct. 1942 (1968), he is again precluded by *Schlesinger*. *See also United States v. Richardson*, 418 U.S. 166, 94 S.Ct. 2940 (1974). Accordingly, it is

ORDERED and ADJUDGED that Plaintiff's motion for default is DENIED and the cause is hereby DISMISSED.

DONE and ORDERED at Tampa, Florida, this 13th day of August, 1976.

WM. TERRELL HODGES
UNITED STATES DISTRICT JUDGE

---



**APPENDIX B**

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

---

NO. 76-3671
Summary Calendar*

---

DAVID B. HIGGINBOTTOM,
Plaintiff-Appellant,
versus

W. MICHAEL BLUMENTHAL, as
Secretary of the Treasury
of the United States of America,
Defendant-Appellee.

---

Appeal from the United States District Court
for the Middle District of Florida

---

(May 20, 1977)

BEFORE: THORNBERRY, RONEY and HILL, Circuit Judges.
PER CURIAM: AFFIRMED. See Local Rule 21.[1]

---

*Rule 18, 5 Cir.; See Isbell Enterprises, Inc. v. Citizens Casualty Co. of New York, et al., 5 Cir. 1970, 431 F.2d 409. Part I.

[1] See N.L.R.B. v. Amalgamated Clothing Workers of America, 5 Cir., 1970, 430 F.2d 966.

## APPENDIX C

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

---

NO. 76-3671

---

[Filed June 22, 1977]

DAVID B. HIGGINBOTTOM,
Plaintiff-Appellant,
versus

W. MICHAEL BLUMENTHAL, As
Secretary of the Treasury
of the United States of America,
Defendant-Appellee.

---

Appeal from the United States District Court
for the Middle District of Florida

---

ON PETITION FOR REHEARING
(June 22, 1977)

Before THORNBERRY, RONEY and HILL, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby DENIED.

ENTERED FOR THE COURT:

/s/ James C. Hill
United States Circuit Judge



## APPENDIX D

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

| | | |
|---|---|---|
| DAVID B. HIGGINBOTTOM, | ) | |
| | : | |
| Plaintiff, | : | |
| —vs— | : | CASE NUMBER |
| | ) | 76-6-Civ. T-H |
| WILLIAM E. SIMON, as Secretary | : | |
| of the Treasury of the United | ) | |
| States of America, | : | |
| | ) | |
| Defendant. | : | |
| | ) | |

COMPLAINT

DAVID B. HIGGINBOTTOM, a citizen of the United States of America, sues WILLIAM E. SIMON, as Secretary of the Treasury of the United States of America, and states:

1). This is an action to enforce a provision of the Constitution of the United States of America, namely Article II, Clause 6, which states:

> The President shall, at stated times, receive for his services a compensation which shall neither be encreased (sic) nor diminished during the term for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

2). Plaintiff is without any recourse to enforce the said Constitutional provision except in this Honorable Court and as proof thereof attaches hereto a copy of a letter from plaintiff to Senator Lloyd Bentsen of Texas, a duly elected

United States Senator, together with a copy of the reply received by plaintiff from Senator Bentsen.

3). Plaintiff is informed and believes, and on such information and belief alleges that the above quoted Constitutional provision is almost daily being violated by defendant in paying for emoluments to the President of the United States contrary to the said provision, and as examples of such payments plaintiff cites:

(a) The personal use by the President of several aircraft, one of which is known as Air Force I, which aircraft are very expensive to maintain and operate and for the use of which the President pays not one dollar and for which the defendant is paying out of the public funds thus constituting an emolument received by the President in addition to his constitutional compensation.

(b) The personal use by the President of automobiles and watercraft maintained and operated at no expense to the President, and for which the defendant is paying out of the public funds thus constituting an emolument received by the President over and above his constitutional compensation.

(c) The personal use by the President of an area in Maryland known as Camp David maintained and operated at no expense to the President and for which the defendant is paying out of the public funds thus constituting an emolument received by the President over and above his constitutional compensation.

(d) The personal use by the President of the services of numerous persons as household servants, bodyguards, personal secretaries, chauffeurs, pilots, sailors, telephone operators, and in other capacities such as doctors, nurses, and possibly many others of which plaintiff is not now informed, for which services the defendant is paying out of the public funds thus constituting an emolument received by the President over and above his constitutional compensation.



4). Plaintiff is informed and believes, based on information elicited by various committees of the Congress of the United States, and on such information and belief alleges that predecessors of defendant in the office which he now holds, paid in excess of Seventeen Million Dollars for improvements to the private residences of a former President of the United States out of the public funds thus paying emoluments to that President over and above his constitutional compensation, and plaintiff is without knowledge as to what sums defendant may now be paying out of public funds for the improvement of privately owned property for the benefit of the President, thus constituting an emolument received by the President over and above his constitutional compensation.

WHEREFORE plaintiff prays that this Honorable Court will issue to the Secretary of the Treasury, WILLIAM E. SIMON, or his successor or successors in office, an order requiring said Secretary to furnish to this Court an accounting of all sums now being paid out of the public funds for the maintenance and operation of aircraft, watercraft, vehicles and Camp David, kept and operated primarily for the use of the President of the United States and for the services of persons rendering personal services to the President, but not paid for by the President; that when such accounting has been rendered, this Court will hold a hearing to determine whether or not the provisions of Article II, Clause 6 of the Constitution of the United States have been violated by defendant; and that if past and continuing violations of said clause are determined to exist by this Court, that an order issue enjoining and restraining defendant and his successors in Office from continuing to

violate the Constitution of the United States which he and the President have sworn to uphold.

/s/ David B. Higginbottom
DAVID B. HIGGINBOTTOM
In Proper Person
Post Office Box 697
Frostproof, Florida 33843

---



DAVID B. HIGGINBOTTOM
Attorney at Law
101 East Wall Street
P.O. Box 697
Frostproof, Florida 33843
(813) 635-4894

David B. Higginbottom
Anthony A. Accorsi

September 5, 1975

Senator Loyd Bentsen
Senate Office Building
Washington, D.C. 20510

Dear Senator Bentsen:

You have shown some interest in the money spent by the Federal Government for President Gerald R. Ford's campaign trips.

During the Revolution, George Washington told the Continental Congress that he wanted no pay for his services as commander of the army. All he wanted was to be reimbursed for his expenses. The Continental Congress accepted this generous offer and soon regretted it. Washington was, it is said, the inventor of the saying, "I don't care what the salary is, give me a good expense account."

The writers of the Constitution recalling this regrettable situation, wrote into that document Article II, clause 6, which states:

> "The President shall, at stated times, receive for his services, a compensation which shall neither be encreased (sic) nor diminished during the term for which he shall have been elected, *and he shall not receive within that period any other emolument from the United States, or any of them.*"

At least through the Presidency of Abraham Lincoln, this provision of the Constitution was observed. Since then this provision has gradually been eroded until under Nixon and Ford it has been forgotten. Under the Constitution, Mr. Ford's extra expenses when he went to Vale recently were illegally paid for by the taxpayers. They were other emoluments. Mr. Ford should have paid for Air Force I, for the extra cost of moving members of the Secret Service and rent for their rooms, the extra costs of communications and any other costs brought on by Mr. Ford being absent from the White House. All of these things are extra expenses to the taxpayers and hence *other emoluments* forbidden by the Constitution. When Mr. Ford has servants in the White House who are paid *not* by him personally, but by the taxpayers, these are *other emoluments.* All illegally paid for by the American taxpayer.

Are you serious in your objections to Mr. Ford's extravagances at the taxpayer's expense? You, as a United States Senator, can do something about it if you are. The Constitution says so. You can propose an amendment to the Constitution to provide for an expense account for the President, or you can provide a salary for the President to take care of the reasonable expenses of the Office in a realistic manner. One or the other should be done instead of just ignoring a clear Constitutional provision.

Yours truly,

/s/ David B. Higginbottom
David B. Higginbottom

DBH/nls

---



* * * * *

UNITED STATES SENATE
Committee on Public Works
Washington, D.C. 20510

September 15, 1975

Mr. David B. Higginbottom
101 East Wall Street
Box 697
Frostproof, Florida 33843

Dear Mr. Higginbottom:

Thanks for your recent correspondence expressing your concern about the President's use of Federal resources for campaign trips.

As you know, the Federal Elections Commission has ruled on some of the questions surrounding the costs of the President's travel.

Please be assured I am quite serious in the objections I have made and will be following this matter closely.

Thanks again for taking the time to write.

Sincerely,

/s/ Lloyd Bentsen
Lloyd Bentsen

---